

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRYCE FRANKLIN,

Petitioner,

vs.

No. CV 18-01156 JB/JHR

ALISHA LUCERO, et al.,

Respondents.

ORDER ON PENDING MOTIONS

THIS MATTER is before the Court on the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (Doc. 2), Petitioner's Request for Hearing (Doc. 5), Petitioner's Motion for an Answer (Doc. 7), and Petitioner's Motion for Ruling on the Petition (Doc. 9) filed by Petitioner, Bryce Franklin. The Court will grant the Motion for Leave to Proceed and will deny the Request for Hearing, Motion for an Answer, and Motion for Ruling on Petition as premature.

1. Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (Doc. 2):

This is a habeas corpus proceeding under 28 U.S.C. § 2254. Petitioner seeks leave to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. Petitioner has submitted a motion and an affidavit, affirming under penalty of perjury that he is unable to prepay the fees or costs of this proceeding as required by 28 U.S.C. § 1915(a). Therefore, the Court will grant the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (Doc. 2) filed by Petitioner Franklin and Petitioner may proceed without prepayment of costs or other fees or the necessity of giving security therefor.

2. Petitioner's Request for Hearing (Doc. 5), Motion for an Answer (Doc. 7), and Motion for a Ruling on the Petition (Doc. 9):

Petitioner Franklin has filed motions asking the Court to hold an evidentiary hearing, to order the Respondents to answer, and for a ruling on his habeas corpus petition. Because Petitioner is a prisoner proceeding pro se, the Court is obligated to conduct a preliminary screening of the Petition. *See* Rule 4 of the Rules Governing Section 2254 Proceedings. Whenever a prisoner brings a proceeding seeking habeas corpus relief, the Court is obligated to screen the prisoner's petition. Rule 4 states:

“If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.”

Requests for service of process, discovery, expansion of the record, hearings, and submissions of proof are premature and unavailable prior to the Court's completion of its screening obligation. *See Jones v. Bock*, 549 U.S. 199, 213-214 (2007). The Court will deny, as premature and without prejudice, the Petitioner's Request for Hearing (Doc. 5), Motion for an Answer (Doc. 7), and Motion for a Ruling on the Petition (Doc. 9). If Petitioner's Petition is not dismissed on initial screening, the Court will enter further orders governing service of process, discovery, expansion of the record, and scheduling.

IT IS ORDERED:

(1) the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (Doc. 2) filed by Petitioner, Bryce Franklin, is **GRANTED**, and Petitioner may proceed without prepayment of costs or other fees or the necessity of giving security therefor; and

(2) Petitioner's Request for Hearing (Doc. 5), Petitioner's Motion for an Answer (Doc. 7), and Petitioner's Motion for Ruling on the Petition (Doc. 9) filed by Petitioner, Bryce Franklin are **DENIED** as premature and without prejudice.

A handwritten signature in black ink, appearing to read "J. H. [unclear]", is written above a horizontal line.

UNITED STATES MAGISTRATE JUDGE